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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/814,664

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Nicholas Grande

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5900

7590

10/12/2006

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EXAMINER

SOLD, JENA A

ART UNIT

PAPER NUMBER

3765

DATE MAILED: 10/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/814,664

Applicant(s)

GRANDE ET AL

Examiner

Jena A. Sold

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/28/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words.

1. The abstract of the disclosure is objected to because it falls short of the 50 to 150 word range. Correction is required. See MPEP § 608.01(b).

2. The disclosure is objected to because of the following informalities:

Replace the word "seem" with the word "seam" throughout the specification.

On page 6, in regard to Figures 6 and 11, replace "zig-zig" with "zig-zag."

Appropriate correction is required.

3. Additionally, Figure 26 is not mentioned in the specification, in either the Brief Description of Several Views of the Drawing, or the Detailed Description of the Preferred Embodiment.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 6 and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Claim 6 recites the limitation "...wherein said first necktie shaped section and said second necktie shaped section are stitched together by a series of zig-zag stitches." There is insufficient antecedent basis for this limitation in the claim because claim 6 is dependent on claim 1 which does not mention a first necktie shaped section or a second necktie shaped section. The necktie shaped sections are introduced in claims 4 and 5, neither of which is in the dependency chain of claim 6. Thus, in considering claim 6 in light of its dependency chain, it is unclear to what "said first necktie shaped section and said second necktie shaped section" is referring.

6. Similarly, claim 10 recites the limitation "...wherein said at least one lower edge possesses a satin stitch." The dependency chain of claim 10 includes claims 7, 4, and 1, none of which introduce an "at least one lower edge," which is introduced in claim 9. Thus, the limitation in claim 10 referring to "said at least one lower edge" lacks antecedent basis because it is unclear, in view of the claim's dependency chain, to what specific structure that phrase is referring.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1, 2, 4, 5, 9, and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Gaffney (U.S. 5,575,007). Gaffney discloses a reversible necktie 10

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comprising a first necktie-shaped fabric piece 20 and a second necktie-shaped fabric piece 30 (column 2, lines 52-56). Fabric piece 20 and fabric piece 30 are secured together by lines of stitching 41 and 42, thus anticipating present applicant's at least two fabrics stitched together.

8. Regarding claim 2, Gaffney discloses a fabric liner 50 secured to underside 24 of fabric piece 20 by lines of stitching 51 and 52 (column 3, lines 28-30), as visible in Figure 4. When necktie 10 is inverted, as shown in Figure 6, liner 50 is disposed in between necktie-shaped fabric pieces 20 and 20 (column 4, lines 8-10).

9. Regarding claim 4, and as best visible in Figures 3 and 4, Gaffney discloses a first necktie shaped section 20 containing narrow end 28, present applicant's rectangular end, and a second necktie shaped section 30, having narrow end 38 (column 2, lines 52-56).

10. Regarding claim 5, as explained in column 3, line 48 through column 4, line 9 and illustrated in Figures 5a through 5d, the material proximate to narrow ends 28 and 38, present applicant's rectangular ends, are folded back onto themselves two times resulting in hems 92 and 94 which are secured by stitching lines 90. Thus, said first necktie shaped section and said second necktie shaped section are stitched together at said rectangular ends.

11. Regarding claims 9 and 11, as visible in the figures, reversible necktie 10 comprises a first and second side edge, a first and second upper edge, narrow end 28 and narrow end 38, and at least one lower edge, wide end 26 and wide end 28 (column 2, lines 52-56).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 3, 6, 7, 8, 10, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gaffney. Regarding claim 7, Gaffney discloses the invention substantially as claimed including two pieces of fabric stitched together and a third fabric, liner 50, having a rectangular end, disposed between said fabrics and stitched to the lower ends of the fabrics. While said third fabric 50 extends from the lower ends of the first and second fabrics to the rectangular ends of the first and second fabrics, as visible in Figure 4, Gaffney fails to disclose, the invention wherein the third fabric is stitched to the first and second fabrics at the rectangular ends, rather than at the lower end. The specification, however, discloses no criticality for this particular construction and does not specify why it is desirable to stitch said third fabric at the rectangular end rather than the lower end. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to stitch said third fabric to the first and second fabrics at their rectangular ends rather than their lower ends because said construction achieves the same purpose as the construction of Gaffney – that is, to attach the third fabric to the first and second outer fabrics in a secure connection – and stitching at the rectangular ends would be less visible when the tie was worn.

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13. Gaffney, while anticipating the structure of the present invention, fails to disclose the specific types of stitching employed at different locations, including a series of running stitches attaching the two outer fabrics, a series of zig-zag stitches attaching the first necktie shaped section and second necktie shaped section as well as the third necktie shaped section, and a satin stitch on the at least one lower edge.

14. Present applicant's disclosure, however, fails to reveal any criticality in the aforementioned seam constructions, nor does it disclose said seam constructions to offer any particular advantage, serve any particular purpose, or solve any particular problem as stated in the specification. Additionally, running stitches, zig-zag stitches, and satin stitches are well known in the apparel arts to offer certain advantages, perform certain functions and, therefore, be used in certain situations. The subsequent information regarding types of sewing stitches has been obtained from the following websites:

<http://www.alternative-windows.com/stitches.htm>

http://id.essortment.com/sewingstitches_rvrm.htm

<http://home.howstuffworks.com/sewing-machine.htm>

<http://www.merriam-webster.com/dictionary/satin+stitch>

15. Regarding claim 3, running stitches are commonly used for seam constructions and topstitching, and are essentially the same as straight stitches, the most basic and important stitch in sewing. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use a running stitch to sew the two pieces of fabric together because the running stitch is a simple stitch that binds fabrics with a

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straight seam, the most common stitch in garment construction, and the foundation of all sewing.

16. Regarding claims 6 and 8, the zig-zag stitch, which is naturally elastic, is therefore utilized in instances where it is desirable for the fabric to stretch. Thus, it would have been obvious to one of ordinary skill in the arts to attach the first, second, and third necktie shaped sections together using a zig-zag stitch, because said stitch stretches with the fabric, allowing the reversible tie to be more easily inverted so that the opposite side can be displayed.

17. Regarding claims 10 and 12, the satin stitch, essentially a tight zig-zag stitch where the stitches are so close together as to resemble satin. Because the stitches are so close, satin stitches are especially strong. Thus, it would have been obvious to one of ordinary skill in the art to construct the necktie of Gaffney wherein the stitch 90 is a satin stitch because the satin stitch would effectively tack the lower edges and provide a small, unobtrusive yet strong securement for the lower area of the necktie.

Conclusion

18. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure and is cited on form 893 enclosed herewith.


19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jena A. Sold whose telephone number is (571) 272-8610. The examiner can normally be reached on Mon. - Fri. 8:30 A.M. to 4:30 P.M..

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Welch can be reached on (571) 272-4996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

jas


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